

REMARKS

The Office Action dated May 5, 2004 has been received and carefully considered. In this response, claims 1, 11-15, 20-22 and 25-27 have been amended for grammatical consistency. The amendments to the claims do not narrow the scope of the claims and no new matter is introduced by these amendments. Reconsideration of the outstanding rejections in the present application therefore is respectfully requested based on the following remarks.

Anticipation Rejection of Claims 1-27

At page 2 of the Office Action, claims 1-27 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bormann (U.S. Patent No. 6,625,707). This rejection is respectfully traversed.

The Examiner asserts that Bormann discloses all of the limitations recited in claims 1-27 at pages 2-4 of the Office Action. The Applicants respectfully traverse the Examiner's assertions and respectfully submit that Bormann fails to disclose or suggest each and every limitation recited in claims 1, 12 and 19, from which claims 2-11, 13-18 and 20-27 depend, respectively. Moreover, not only does Bormann fail to disclose or suggest all of the claimed limitations, the Applicants have filed herewith a Declaration under 37 C.F.R. § 1.131 (attached as Appendix A) which establishes that the conception of the subject matter of the present application antedates the filing date of Bormann, thereby disqualifying Bormann as prior art under 35 U.S.C. § 102(e). See 37 C.F.R. § 1.131 ("When an appropriate oath or declaration is made, the patent or publication cited [under 35 U.S.C. § 102(a) or (e)] shall not bar the grant of a patent to the inventor or the confirmation of the patentability of the claims of the patent").

As provided on the face of the patent, the effective date (*i.e.*, the earliest filing date) of Bormann is June 25, 2001. See *Bormann*, field 22. As evinced by paragraph 1 of the Declaration, a draft of the present application was provided to the Assignee of the present application prior to the effective date. This draft application supports that the subject matter of the claims of the present invention was reduced to practice prior to the effective date of Bormann.

It is further submitted that due diligence was performed in the reduction of the invention to practice. As noted above, a draft of the present application was provided within thirty days prior to the effective date of Bormann. Subsequently, diligence was exercised until the filing of the application on September 26, 2001.

In view of the foregoing, it is respectfully submitted that the Declaration is appropriate under 37 § 1.131 as it establishes that (a) the subject matter of the invention was conceived prior to the effective date of Bormann (*see Declaration*, para. 4); (b) due diligence was exercised in reducing the invention to practice from before the effective date of Bormann to the filing of the present application (*see Declaration*, paras. 5-9); and (c) the activities resulting in the conception of the subject matter of the present application occurred in the United States (*see Declaration*, para. 3). Accordingly, Bormann “shall not bar the grant of a patent to the inventor or the confirmation of the patentability of the claims of the patent.” C.F.R. § 1.131(b).

Because Bormann is disqualified as a § 102(e) prior art reference, the Applicants respectfully submit that anticipation rejection of claims 1-27 in view of Bormann is improper at this time and withdrawal of this rejection is respectfully requested.

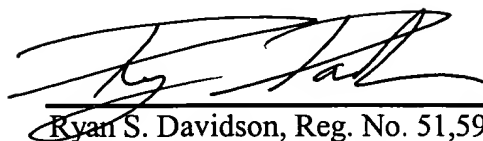
Conclusion

It is respectfully submitted that the present application is in condition for allowance and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Applicants do not believe that any additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0441.

Respectfully submitted,

September 7, 2004
Date

A handwritten signature in black ink, appearing to read "R. Davidson", written over a horizontal line.

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On Behalf Of

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